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12 Samsung Research America, Inc.

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 HUAWEI TECHNOLOGIES CO., LTD., et al.,
17 Plaintiffs,
18 v.
19 SAMSUNG ELECTRONICS CO., LTD., et al.,
20 Defendants.

CASE NO. 16-cv-02787-WHO

**DECLARATION OF SAM STAKE IN
SUPPORT OF SAMSUNG'S MOTION
TO ENJOIN HUAWEI FROM
ENFORCING THE INJUNCTION
ISSUED BY THE INTERMEDIATE
PEOPLE'S COURT OF SHENZHEN**

21 SAMSUNG ELECTRONICS CO., LTD. &
22 SAMSUNG ELECTRONICS AMERICA, INC.,
23 Counterclaim-Plaintiffs,
24 v.
25 HUAWEI TECHNOLOGIES CO., LTD.,
26 HUAWEI DEVICE USA, INC., HUAWEI
27 TECHNOLOGIES USA, INC. & HISILICON
TECHNOLOGIES CO., LTD.,
28 Counterclaim-Defendants.

1 I, Sam Stake, declare as follows:

2 1. I am an attorney at the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,
3 counsel for Defendants and Counterclaim-Plaintiffs Samsung Electronics Co., Ltd., Samsung
4 Electronics America, Inc., and Defendant Samsung Research America, Inc. (collectively,
5 “Samsung”). I submit this declaration in support of Samsung’s Motion to Enjoin Huawei from
6 Enforcing the Injunction Issued by the Intermediate People’s Court of Shenzhen (“Shenzhen
7 Court”). I have personal knowledge of the facts set forth in this declaration, and, if called upon as
8 a witness, I could and would testify to such facts under oath.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of a certified translation of
10 the transcript of a speech given by Ding Jianxin, Vice President of Huawei Technologies Co.,
11 Ltd., at the 2016 China Competition Policy Forum.

12 3. Attached hereto as Exhibit 2 is a true and correct copy of the publication titled
13 “United States Standards Strategy” issued by the American National Standards Institute (“ANSI”) on
14 December 8, 2005.

15 4. Attached hereto as Exhibit 3 is a true and correct copy of the publication titled
16 “Study Into the Impact of Standardization” issued by the Impacts of Standards Users Group in
17 April 2002 as a final report to the Directorate General of Enterprise and Industry for the European
18 Commission.

19 5. Attached hereto as Exhibit 4 is a true and correct copy of the “Why we need
20 standards” web page on the ETSI website, as it existed on January 21, 2018 at
21 <http://www.etsi.org/standards/why-we-need-standards>.

22 6. Attached hereto as Exhibit 5 is a true and correct copy of the “Bring benefits to
23 society” web page on the European Committee for Standardization (“CEN”) website, as it existed
24 on January 21, 2018 at <https://www.cen.eu/about/RoleEurope/Society/Pages/default.aspx>.

25 7. Attached hereto as Exhibit 6 is a true and correct copy of a paper titled “The
26 Economics of Standardization,” authored by Peter Swann at the Manchester Business School at
27 the University of Manchester, and issued as a final report on December 11, 2000 for the Standards
28

1 and Technical Regulations Directorate of the Department of Trade and Industry (“DTI”) of the
2 United Kingdom.

3 8. Attached hereto as Exhibit 7 is a true and correct copy of the publication titled
4 “Economic benefits of standardization” issued by the German Institute for Standardization
5 (“DIN”) in April 2000.

6 9. Attached hereto as Exhibit 8 is a true and correct copy of an article in Volume 85 of
7 the Texas Law Review titled “Patent Holdup and Royalty Stacking,” authored by Mark A. Lemley
8 and Carl Shapiro, and published in 2007.

9 10. Attached hereto as Exhibit 9 is a true and correct copy of a “Policy Statement on
10 Remedies for Standards-Essential patents Subject to Voluntary F/RAND Commitments” issued by
11 the U.S. Department of Justice and the U.S. Patent & Trademark Office on January 8, 2013.

12 11. Attached hereto as Exhibit 10 is a true and correct copy of document titled “Brief
13 of Amicus Curiae Federal Trade Commission Supporting Neither Party” submitted to the United
14 States Court of Appeals for the Federal Circuit in *Apple Inc. and NeXt Software, Inc. v. Motorola,*
15 *Inc. and Motorola Mobility, Inc.*, Nos. 2012-1548, 2012-1549, on December 14, 2012 as
16 Document No. 104.

17 12. Attached hereto as Exhibit 11 is a true and correct copy of the Compliant issued by
18 the U.S. Federal Trade Commission on July 23, 2013, as Document No. C-4410 in the proceeding
19 titled *In the Matter of Motorola Mobility LLC and Google Inc.*, File No. 121-0120.

20 13. Attached hereto as Exhibit 12 is a true and correct copy of a transcript of the
21 address titled “Standard-Essential Patents and Licensing: An Antitrust Enforcement Perspective”
22 given by U.S. Federal Trade Commission Chairwoman Edith Ramirez at the 8th Annual Global
23 Antitrust Enforcement Symposium at Georgetown University Law Center in Washington, DC, on
24 September 10, 2014.

25 14. Attached hereto as Exhibit 13 is a true and correct copy of an article titled “What Is
26 ‘FRAND’ All About?: The Licensing of Patents Essential to an Accepted Standard,” authored by
27 Jeffrey I.D. Lewis, published on June 11, 2014, and available online at
28 <https://cardozo.yu.edu/what-%E2%80%9Cfrand%E2%80%9D-all-about-licensing-patents->

1 essential-accepted-standard.

2 15. Attached hereto as Exhibit 14 is a true and correct copy of an article in Volume 90
3 of the California Law Review titled “Intellectual Property Rights and Standard-Setting
4 Organizations,” authored by Mark A. Lemley, and published in 2002.

5 16. Attached hereto as Exhibit 15 is a true and correct copy of the “Mobile
6 Communications” web page on the ETSI website, as it existed on January 22, 2018 at
7 <http://www.etsi.org/technologies-clusters/technologies/mobile>.

8 17. Attached hereto as Exhibit 16 is a true and correct copy of a press release issued by
9 Nokia on July 13, 2016, titled “Nokia and Samsung expand their intellectual property cross
10 license” and available at [https://www.nokia.com/en_int/news/releases/2016/07/13/nokia-and-](https://www.nokia.com/en_int/news/releases/2016/07/13/nokia-and-samsung-expand-their-intellectual-property-cross-license)
11 [samsung-expand-their-intellectual-property-cross-license](https://www.nokia.com/en_int/news/releases/2016/07/13/nokia-and-samsung-expand-their-intellectual-property-cross-license).

12 18. Attached hereto as Exhibit 17 is a true and correct copy of a press release issued by
13 Samsung on January 27, 2014, titled “Samsung and Google Sign Global Patent License
14 Agreement” and available at [https://news.samsung.com/global/samsung-and-google-sign-global-](https://news.samsung.com/global/samsung-and-google-sign-global-patent-license-agreement)
15 [patent-license-agreement](https://news.samsung.com/global/samsung-and-google-sign-global-patent-license-agreement).

16 19. Attached hereto as Exhibit 18 is a true and correct copy of a letter sent by Dr. Song
17 Liuping to Dr. Oh-Hyun Kwan, dated March 2, 2015, and produced in this case bearing Bates
18 numbers HW_Samsung_00231024 – HW_Samsung_00231025.

19 20. Attached hereto as Exhibit 19 is a true and correct copy of presentation slides from
20 a March 2012 meeting between Huawei and Samsung that were produced in this case bearing
21 Bates numbers HW_Samsung_00131187 – HW_Samsung_00131198.

22 21. Attached hereto as Exhibit 20 is a true and correct copy of an email sent by
23 Yooseok Kim to Xuxin Cheng on July 20, 2012 and produced in this case bearing Bates numbers
24 HW_Samsung_00130694 – HW_Samsung_00130696.

25 22. Attached hereto as Exhibit 21 is a true and correct copy of an email chain produced
26 in this case bearing Bates numbers HW_Samsung_00131554 – HW_Samsung_00131565, the
27 most recent message of which was sent by Ilseok Jang to Xuxin Cheng on May 30, 2013.

28 23. Attached hereto as Exhibit 22 is a true and correct copy of an email chain produced

1 in this case bearing Bates numbers HW_Samsung_00229986 – HW_Samsung_00229989, the
2 most recent message of which was sent by Bryan Xu to Daniel Ko and Hojin Chang on October
3 23, 2013.

4 24. Attached hereto as Exhibit 23 is a true and correct copy of an email chain produced
5 in this case bearing Bates numbers HW_Samsung_00230922 – HW_Samsung_00230933, the
6 most recent message of which was sent by Bryan Xu to Hojin Chang and Ilseok Jang on March 7,
7 2014.

8 25. Attached hereto as Exhibit 24 is a true and correct copy of an email chain produced
9 in this case bearing Bates numbers HW_Samsung_00230982 – HW_Samsung_00230993, the
10 most recent message of which was sent by Hojin Chang to Xuxin Cheng on February 3, 2015.

11 26. Attached hereto as Exhibit 25 is a true and correct copy of an email chain produced
12 in this case bearing Bates numbers HW_Samsung_00231077 – HW_Samsung_00231082, the
13 most recent message of which was sent by Xuxin Cheng to Hojin Chang on April 16, 2015.

14 27. Attached hereto as Exhibit 26 is a true and correct copy of an email chain produced
15 in this case bearing Bates numbers HW_Samsung_00231145 – HW_Samsung_00231147, the
16 most recent message of which was sent by Xuxin Cheng to Hojin Chang and Ilseok Jang on May
17 22, 2015.

18 28. Attached hereto as Exhibit 27 is a true and correct copy of presentation slides from
19 an August 12, 2015 meeting between Huawei and Samsung that were produced in this case
20 bearing Bates numbers SAMSUNG-HNDCA-000394001 – SAMSUNG-HNDCA-000394009.

21 29. Attached hereto as Exhibit 28 is a true and correct copy of an email chain produced
22 in this case bearing Bates numbers SAMSUNG-HNDCA-000394015 – SAMSUNG-HNDCA-
23 000394019, the most recent message of which was sent by Xuxin Cheng to Hojin Chang on
24 September 23, 2015.

25 30. Attached hereto as Exhibit 29 is a true and correct copy of an email chain, the most
26 recent message of which was sent by Hojin Chang to Bryan Xu and Xuxin Cheng on November
27 19, 2015.

28 31. Attached hereto as Exhibit 30 is a true and correct copy of a draft license agreement

1 that Huawei sent to Samsung, dated April 7, 2013 and produced in this case bearing Bates
2 numbers HW_Samsung_00131518 – HW_Samsung_00131531.

3 32. Attached hereto as Exhibit 31 is a true and correct copy of a draft license agreement
4 that Huawei sent to Samsung and that was produced in this case bearing Bates numbers
5 SAMSUNG-HNDCA-000393987 – SAMSUNG-HNDCA-000394000.

6 33. Attached hereto as Exhibit 32 is a true and correct copy of a letter sent by Huawei
7 to Dr. Seong-Ho Ahn and Hojin Chang, dated December 31, 2015, and produced in this case
8 bearing Bates numbers HW_Samsung_00000002 – HW_Samsung_00000003.

9 34. Attached hereto as Exhibit 33 is a true and correct copy of a letter sent by Hojin
10 Chang to Xuxin Cheng, dated August 24, 2016.

11 35. Attached hereto as Exhibit 34 is a true and correct copy of a letter sent by Hojin
12 Chang to Xuxin Cheng, dated December 13, 2016.

13 36. Attached hereto as Exhibit 35 is a true and correct copy of a letter sent by Hojin
14 Chang to Xuxin Cheng, dated July 13, 2016.

15 37. Attached hereto as Exhibit 36 is a true and correct copy of a certified English
16 translation of the Civil Judgment issued by the Shenzhen Intermediate People's Court on January
17 11, 2018.

18 38. Attached hereto as Exhibit 37 is a true and correct copy of Microsoft's Motion for a
19 Temporary Restraining Order and Preliminary Injunction, filed as Dkt. 210 in *Microsoft Corp. v.*
20 *Motorola Inc.*, No. C10-1823-JLR (W.D. Wash. Mar. 28, 2012).

21 39. Attached hereto as Exhibit 38 is a true and correct copy of Microsoft's Reply in
22 Support of Its Motion for a Temporary Restraining Order and Preliminary Injunction, filed as Dkt.
23 257 in *Microsoft Corp. v. Motorola Inc.*, No. C10-1823-JLR (W.D. Wash. Apr. 9, 2012).

24 40. Attached hereto as Exhibit 39 is a true and correct copy of Defendants' Opposition
25 to Microsoft's Motion for a Temporary Restraining Order and Preliminary Injunction, filed as Dkt.
26 244 in *Microsoft Corp. v. Motorola Inc.*, No. C10-1823-JLR (W.D. Wash. Apr. 6, 2012).

27 41. Attached hereto as Exhibit 40 is a true and correct copy of the Order re Motions
28 issued as Dkt. 279-1 in *TCL Communication Technology Holdings, Ltd. v. Telefonaktienbolaget*

1 *LM Ericsson*, No. 8:14-cv-00341-JVS-DFM (CD. Cal. June 29, 2015).

2 42. Attached hereto as Exhibit 41 is a true and correct copy of the Judgment issued by
3 the UK High Court of Justice in *Unwired Planet International Ltd. v. Huawei Technologies Co.,*
4 *Ltd.*, [2017] EWHC 711 (Pat).

5 43. Attached hereto as Exhibit 42 is a true and correct copy of Defendants' Opening
6 Brief in Support of Motion for Expedited Discovery and Expedited Trial on FRAND
7 Counterclaims, filed as Dkt. 17 in *InterDigital Communications, Inc. v. Huawei Technologies Co.,*
8 *Ltd.*, No. 1:13-cv-00008-RGA (D. Del. Feb. 11, 2013).

9
10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct to the best of my knowledge. Executed February 1, 2018, in San
12 Francisco, California.

13
14 /s/ Sam Stake
15 Sam Stake
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ATTESTATION

I, Victoria F. Maroulis, am the ECF user whose ID and password are being used to file the above Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Sam Stake has concurred in the aforementioned filing.

/s/ Victoria F. Maroulis
Victoria F. Maroulis